

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
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LB 364

bill. I don't necessarily like everything that is in this prison bill, but I feel it's responsible to do a prison bill, and I would like to see it done, but I'd like to see it different than it is, but I am willing to bite the bullet and go with the majority decision here on that issue. Where are the examples of an abuse of discretion by the judiciary? Where has the judiciary gone overboard in abusing their discretion in setting sentences? I asked...I asked the County Attorney of Lancaster County, Gary Lacey, to give me some examples or to just pull out some cases where...where they have had defendants receive more than the minimum sentence on a Class IV felony, and he...he tells me they arbitrarily pulled out about six of them here, and they are all...they all happen to be in there for driving...for violating a lifetime suspension of their license. Now you would say, and I'd probably say, well, they shouldn't be in the penitentiary probably for that, but let me tell you the first one here, and they are all similar, and I will show them to you. I haven't made copies. You can come and look at them on my desk. Gerald Lempka, this is the record; marijuana, third offense drunken driving, willful reckless driving, marijuana, marijuana, marijuana, failure to appear, driving under a lifetime suspension once, driving under a lifetime suspension again, shoplifting, driving under a lifetime suspension again, motor vehicle homicide,...

PRESIDENT ROBAK: One minute.

SENATOR BROMM: ...motor vehicle homicide, the last thing, driving under a lifetime suspension again, and he got a four year, ten month sentence to a five-year sentence. But he is going to serve at least...he is going to serve at least 20, 25 months. Under your bill, he is going to...he'd be out...he'd be eligible to be out in 10 months. Now I've got other...I've got five more here that Gary Lacey pulled out, and you find that to be the case. A record of sexual assault, a record of spousal battering. They don't get there the first time that they do something. What...what about...what about the drug dealer that you catch in possession but you can't prove that he...that he distributed, so you get him with a Class IV and he is out in 10 months. If you have the latitude of showing the judge, and he can take into consideration this guy has been a dealer, then you can give him more than the minimum sentence. Now there is